

Adopted	Rejected
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## COMMITTEE REPORT

YES:	21
NO:	0

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1728, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS
- 4       FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
- 5       Sec. 3.5. When used in this article, the term "adjusted gross income"
- 6       shall mean the following:
- 7       (a) In the case of all individuals, "adjusted gross income" (as defined
- 8       in Section 62 of the Internal Revenue Code), modified as follows:
- 9       (1) Subtract income that is exempt from taxation under this article
- 10      by the Constitution and statutes of the United States.
- 11      (2) Add an amount equal to any deduction or deductions allowed
- 12      or allowable pursuant to Section 62 of the Internal Revenue Code
- 13      for taxes based on or measured by income and levied at the state
- 14      level by any state of the United States.
- 15      (3) Subtract one thousand dollars (\$1,000), or in the case of a joint

return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a

- 1 recovery of items previously deducted as an itemized deduction  
2 from adjusted gross income.
- 3 (9) Subtract any amounts included in federal adjusted gross  
4 income under the Internal Revenue Code which amounts were  
5 received by the individual as supplemental railroad retirement  
6 annuities under 45 U.S.C. 231 and which are not deductible under  
7 subdivision (1).
- 8 (10) Add an amount equal to the deduction allowed under Section  
9 221 of the Internal Revenue Code for married couples filing joint  
10 returns if the taxable year began before January 1, 1987.
- 11 (11) Add an amount equal to the interest excluded from federal  
12 gross income by the individual for the taxable year under Section  
13 128 of the Internal Revenue Code if the taxable year began before  
14 January 1, 1985.
- 15 (12) Subtract an amount equal to the amount of federal Social  
16 Security and Railroad Retirement benefits included in a taxpayer's  
17 federal gross income by Section 86 of the Internal Revenue Code.
- 18 (13) In the case of a nonresident taxpayer or a resident taxpayer  
19 residing in Indiana for a period of less than the taxpayer's entire  
20 taxable year, the total amount of the deductions allowed pursuant  
21 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
22 which bears the same ratio to the total as the taxpayer's income  
23 taxable in Indiana bears to the taxpayer's total income.
- 24 (14) In the case of an individual who is a recipient of assistance  
25 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,  
26 subtract an amount equal to that portion of the individual's  
27 adjusted gross income with respect to which the individual is not  
28 allowed under federal law to retain an amount to pay state and  
29 local income taxes.
- 30 (15) In the case of an eligible individual, subtract the amount of  
31 a Holocaust victim's settlement payment included in the  
32 individual's federal adjusted gross income.
- 33 (16) For taxable years beginning after December 31, 1999,  
34 subtract an amount equal to the portion of any premiums paid  
35 during the taxable year by the taxpayer for a qualified long term  
36 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
37 taxpayer's spouse, or both.
- 38 (17) Subtract an amount equal to the lesser of:

- 1 (A) for a taxable year:
- 2 (i) including any part of 2004, the amount determined under
- 3 subsection (f); and
- 4 (ii) beginning after December 31, 2004, two thousand five
- 5 hundred dollars (\$2,500); or
- 6 (B) the amount of property taxes that are paid during the
- 7 taxable year in Indiana by the individual on the individual's
- 8 principal place of residence.
- 9 (18) Subtract an amount equal to the amount of a September 11
- 10 terrorist attack settlement payment included in the individual's
- 11 federal adjusted gross income.
- 12 (19) Add or subtract the amount necessary to make the adjusted
- 13 gross income of any taxpayer that owns property for which bonus
- 14 depreciation was allowed in the current taxable year or in an
- 15 earlier taxable year equal to the amount of adjusted gross income
- 16 that would have been computed had an election not been made
- 17 under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue
- 18 Code to apply bonus depreciation to the property in the year that
- 19 it was placed in service.
- 20 (20) Add an amount equal to any deduction allowed under Section
- 21 172 of the Internal Revenue Code.
- 22 **(21) Add or subtract the amount necessary to make the**
- 23 **adjusted gross income of any taxpayer that placed Section 179**
- 24 **property (as defined in Section 179 of the Internal Revenue**
- 25 **Code) in service in the current taxable year or in an earlier**
- 26 **taxable year equal to the amount of adjusted gross income**
- 27 **that would have been computed had an election for federal**
- 28 **income tax purposes not been made for the year in which the**
- 29 **property was placed in service to take deductions under**
- 30 **Section 179 of the Internal Revenue Code in a total amount**
- 31 **exceeding twenty-five thousand dollars (\$25,000).**
- 32 **(22) Add an amount equal to the amount that a taxpayer**
- 33 **claimed as a deduction for domestic production activities for**
- 34 **the taxable year under Section 199 of the Internal Revenue**
- 35 **Code for federal income tax purposes.**
- 36 (b) In the case of corporations, the same as "taxable income" (as
- 37 defined in Section 63 of the Internal Revenue Code) adjusted as
- 38 follows:

- 1 (1) Subtract income that is exempt from taxation under this article
- 2 by the Constitution and statutes of the United States.
- 3 (2) Add an amount equal to any deduction or deductions allowed
- 4 or allowable pursuant to Section 170 of the Internal Revenue
- 5 Code.
- 6 (3) Add an amount equal to any deduction or deductions allowed
- 7 or allowable pursuant to Section 63 of the Internal Revenue Code
- 8 for taxes based on or measured by income and levied at the state
- 9 level by any state of the United States.
- 10 (4) Subtract an amount equal to the amount included in the
- 11 corporation's taxable income under Section 78 of the Internal
- 12 Revenue Code.
- 13 (5) Add or subtract the amount necessary to make the adjusted
- 14 gross income of any taxpayer that owns property for which bonus
- 15 depreciation was allowed in the current taxable year or in an
- 16 earlier taxable year equal to the amount of adjusted gross income
- 17 that would have been computed had an election not been made
- 18 under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue
- 19 Code to apply bonus depreciation to the property in the year that
- 20 it was placed in service.
- 21 (6) Add an amount equal to any deduction allowed under Section
- 22 172 of the Internal Revenue Code.
- 23 **(7) Add or subtract the amount necessary to make the**
- 24 **adjusted gross income of any taxpayer that placed Section 179**
- 25 **property (as defined in Section 179 of the Internal Revenue**
- 26 **Code) in service in the current taxable year or in an earlier**
- 27 **taxable year equal to the amount of adjusted gross income**
- 28 **that would have been computed had an election for federal**
- 29 **income tax purposes not been made for the year in which the**
- 30 **property was placed in service to take deductions under**
- 31 **Section 179 of the Internal Revenue Code in an a total amount**
- 32 **exceeding twenty-five thousand dollars (\$25,000).**
- 33 **(8) Add an amount equal to the amount that a taxpayer**
- 34 **claimed as a deduction for domestic production activities for**
- 35 **the taxable year under Section 199 of the Internal Revenue**
- 36 **Code for federal income tax purposes.**
- 37 (c) In the case of life insurance companies (as defined in Section
- 38 816(a) of the Internal Revenue Code) that are organized under Indiana

law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

**(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).**

**(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.**

(d) In the case of insurance companies subject to tax under Section

831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

**(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).**

**(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.**

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

**(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars (\$25,000).**

**(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.**

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to



- 1 the amount determined under STEP FIVE of the following formula:
- 2 STEP ONE: Determine the amount of property taxes that the
- 3 taxpayer paid after December 31, 2003, in the taxable year for
- 4 property taxes imposed for the March 1, 2002, assessment date
- 5 and the January 15, 2003, assessment date.
- 6 STEP TWO: Determine the amount of property taxes that the
- 7 taxpayer paid in the taxable year for the March 1, 2003,
- 8 assessment date and the January 15, 2004, assessment date.
- 9 STEP THREE: Determine the result of the STEP ONE amount
- 10 divided by the STEP TWO amount.
- 11 STEP FOUR: Multiply the STEP THREE amount by two
- 12 thousand five hundred dollars (\$2,500).
- 13 STEP FIVE: Determine the sum of the STEP THREE amount and
- 14 two thousand five hundred dollars (\$2,500).".
- 15 Page 2, between lines 17 and 18, begin a new paragraph and insert:
- 16 "SECTION 3. IC 6-3-1-33 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
- 18 Sec. 33. As used in this article, "bonus depreciation" means an amount
- 19 equal to that part of any depreciation allowance allowed in computing
- 20 the taxpayer's federal adjusted gross income or federal taxable income
- 21 that is attributable to the additional first-year special depreciation
- 22 allowance (bonus depreciation) for qualified property allowed under
- 23 Section 168(k) of the Internal Revenue Code, **including the special**
- 24 **depreciation allowance for 50-percent bonus depreciation property.**
- 25 SECTION 4. IC 6-5.5-1-2 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
- 27 Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted
- 28 gross income" means taxable income as defined in Section 63 of the
- 29 Internal Revenue Code, adjusted as follows:
- 30 (1) Add the following amounts:
- 31 (A) An amount equal to a deduction allowed or allowable
- 32 under Section 166, Section 585, or Section 593 of the Internal
- 33 Revenue Code.
- 34 (B) An amount equal to a deduction allowed or allowable
- 35 under Section 170 of the Internal Revenue Code.
- 36 (C) An amount equal to a deduction or deductions allowed or
- 37 allowable under Section 63 of the Internal Revenue Code for
- 38 taxes based on or measured by income and levied at the state

level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).**

**(I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.**

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation.

**(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).**

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company

1 during the taxable year from old and new business upon  
 2 investment contracts issued by the company and held by residents  
 3 of Indiana; divided by

4 (2) the total amount of gross payments collected during the  
 5 taxable year by the company from the business upon investment  
 6 contracts issued by the company and held by persons residing  
 7 within Indiana and elsewhere.

8 (d) As used in subsection (c), "investment company" means a  
 9 person, copartnership, association, limited liability company, or  
 10 corporation, whether domestic or foreign, that:

11 (1) is registered under the Investment Company Act of 1940 (15  
 12 U.S.C. 80a-1 et seq.); and

13 (2) solicits or receives a payment to be made to itself and issues  
 14 in exchange for the payment:

15 (A) a so-called bond;

16 (B) a share;

17 (C) a coupon;

18 (D) a certificate of membership;

19 (E) an agreement;

20 (F) a pretended agreement; or

21 (G) other evidences of obligation;

22 entitling the holder to anything of value at some future date, if the  
 23 gross payments received by the company during the taxable year  
 24 on outstanding investment contracts, plus interest and dividends  
 25 earned on those contracts (by prorating the interest and dividends  
 26 earned on investment contracts by the same proportion that  
 27 certificate reserves (as defined by the Investment Company Act of  
 28 1940) is to the company's total assets) is at least fifty percent  
 29 (50%) of the company's gross payments upon investment  
 30 contracts plus gross income from all other sources except  
 31 dividends from subsidiaries for the taxable year. The term  
 32 "investment contract" means an instrument listed in clauses (A)  
 33 through (G).

34 SECTION 5. IC 6-5.5-1-20 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:

36 Sec. 20. As used in this article, "bonus depreciation" means an amount  
 37 equal to that part of any depreciation allowance allowed in computing  
 38 the taxpayer's federal taxable income that is attributable to the

1 additional first-year special depreciation allowance (bonus  
 2 depreciation) for qualified property allowed under Section 168(k) of the  
 3 Internal Revenue Code, **including the special depreciation allowance**  
 4 **for 50-percent bonus depreciation property."**

5 Page 2, between lines 22 and 23, begin a new paragraph and insert:  
 6 "SECTION 7. [EFFECTIVE JANUARY 1, 2005  
 7 (RETROACTIVE)]: (a) IC 6-3-1-3.5 and IC 6-5.5-1-2, both as  
 8 amended by this act, apply only to taxable years beginning after  
 9 December 31, 2004.

10 (b) This act may not be construed to authorize a taxpayer to  
 11 deduct from the taxpayer's Indiana adjusted gross income the  
 12 amount of a deduction under Section 179 of the Internal Revenue  
 13 Code in a total amount exceeding twenty-five thousand dollars  
 14 (\$25,000) taken by the taxpayer before January 1, 2005."

15 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1728 as introduced.)

**and when so amended that said bill do pass.**

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Representative Espich